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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/808,856	03/25/2004	Michael Lester Kerns	DN2001-192D01	6677
7590 07/21/2009 The Goodyear Tire & Rubber Company Patent & Trademark Department - D/823 1144 East Market Street Akron, OH 44316-0001			EXAMINER PATEL, PRITESH ASHOK	
			ART UNIT 3763	PAPER NUMBER
			MAIL DATE 07/21/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/808,856

**Applicant(s)**

KERN ET AL.

**Examiner**

PRITESH PATEL

**Art Unit**

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 April 2009.  
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.  
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-19 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.  
6) ☒ Claim(s) 1-19 is/are rejected.  
7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.  
8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.  
10) ☒ The drawing(s) filed on 25 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)  
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_  
4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_  
5) ☐ Notice of Informal Patent Application  
6) ☐ Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

2. Claims 1, 2, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Case (US 4405317) in view of Takeuchi et al. (US 4433107).

Concerning claims 1 and 2, Case discloses a syringe (10) comprising a barrel (12) having a fluid chamber, a proximal end, a distal end, an elongated tip stemming from element (22), a plunger rod (16), and a ribbed stopper (50), comprised of rubber (Fig 1). Case does not disclose a neodymium polyisoprene rubber. Takeuchi et al. discloses a polyisoprene rubber synthesized using a neodymium element (column 4 lines 22-25). It would have been obvious to one of ordinary skill in the art at the time of the invention that a synthesized rubber made with neodymium would be a neodymium polyisoprene rubber. It would further have been obvious to one of ordinary skill in the art at the time of the invention to modify Case with a neodymium polyisoprene as taught by Takeuchi et al. to use a purer form of rubber.

Concerning claims 16 and 17, in addition to the above disclosure, Case discloses a second barrel (16) with ribbed stopper (26), said second barrel slidably connectable with first barrel so as to mix to substance together before delivery (Fig 1).

3. Claims 3-15, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Case in view of Takeuchi et al. in further view of Throckmorton et al. (US 3541063).

Concerning claims 3 and 18, Case in view of Takeuchi et al. fails to disclose a catalyst mechanism. Throckmorton et al. discloses a catalyst system including an organoaluminum compound, an organoneodymium compound, and at least one compound having a labile halide ion (column 2 line 30, column 3 lines 1-5, and column 3 line 39). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Case in view of Takeuchi with a catalyst system as taught by Throckmorton et al.

Concerning claims 4, 5, and 19 Throckmorton et al. discloses an organoaluminum compound and some examples of them (column 2 lines 30-58).

Concerning claims 6-10, Throckmorton et al. discloses an organoneodymium compound and a list of possible ligands 1 to 20 carbons long (column 2 line 60-72 and column 3 lines 1-33).

Concerning claims 11-14, Throckmorton discloses a labile halide ion (column 3 lines 38-50). It would have been obvious to one of ordinary skill in the art at the time of the invention that though only organometallic halides are provided in detail any labile halide could be used as the third catalyst component.

Concerning claim 15, a range of ratios for the various compounds in the catalyst are provided (column 3 lines 64-72).

#### ***Response to Arguments***

4. Applicant's arguments, see arguments, filed 04/23/2009, with respect to a 35 U.S.C. 112 rejection have been fully considered and are persuasive. The 35 U.S.C. 112 rejections of claims 1-3 and 16-18 have been withdrawn.

5. Applicant's arguments filed 04/23/2009 concerning the 35 U.S.C. 103 rejections have been fully considered but they are not persuasive. Takeuchi et al. discloses a neodymium catalyst system as stated by the applicant and provides processability benefits. As polyisoprene rubbers are used often in medical devices it would have been obvious to use a neodymium rubber in such a capacity. The benefit of synthetic rubbers as opposed to natural rubbers is known in the medical art and therefore would have provided insight into using a neodymium rubber in a medical device.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PRITESH PATEL whose telephone number is (571)270-7025. The examiner can normally be reached on Monday-Friday 7:30Am-5:00PM, every other Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas Lucchesi can be reached on (571)272-4977. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/P. P./  
Examiner, Art Unit 3763  
07/17/2009

/Nicholas D Lucchesi/  
Supervisory Patent Examiner, Art Unit 3763